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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Advanced Television Systems )  
and Their Impact Upon the ) MM Docket No. 87-268  
Existing Television Broadcast )  
Service )

To: The Commission

**COMMENTS OF COX BROADCASTING, INC.**

Cox Broadcasting, Inc. ("Cox"),<sup>1/</sup> by its attorneys, submits herewith its Comments on the *ex parte* submission by the Association for Maximum Service Television, Inc. ("MSTV") in the above-captioned proceeding.<sup>2/</sup>

**I. Introduction.**

Cox recognizes and applauds MSTV's fine efforts toward the development of a digital television ("DTV") Table of Allotments; nonetheless, MSTV's proposals in the *Ex Parte Submission* come far too late in this proceeding, providing far too little time for the

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<sup>1/</sup> Through subsidiaries, Cox owns Television Stations WPXI(TV), Pittsburgh, Pennsylvania; WSOC-TV, Charlotte, North Carolina; WSB-TV, Atlanta, Georgia; WFTV(TV), Orlando, Florida; WHIO-TV, Dayton, Ohio; KFOX-TV, El Paso, Texas; KRXI(TV), Reno, Nevada; KTVU(TV), Oakland, California; and KIRO-TV, Seattle, Washington.

<sup>2/</sup> Association for Maximum Service Television, Inc., *Ex Parte Submission Based on New Technical Discoveries To Help the Commission Improve the DTV Table of Allotments/Assignments*, November 20, 1997 ("*Ex Parte Submission*"). In its December 2, 1997 *Public Notice, FCC Seeks Comment on Filings Addressing Digital TV Allotments*, the Commission requested broadcasters' comments on the *Ex Parte Submission* and an *ex parte* proposal submitted by the Association of Local Television Stations, Inc.

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Commission, much less broadcasters, to assess their full impact on DTV implementation. Although MSTV's proposals on their face may provide relief for broadcasters in some of the larger television markets, this relief will come at the expense of stations in smaller markets. Instead of making the wholesale changes proposed by MSTV, it would be more appropriate for the Commission to evaluate adjacent channel interference and congestion problems on a case-by-case basis.

Cox further questions the public interest benefits of MSTV's proposals as a majority of the Cox television stations will lose a substantial number of viewers and significant geographic coverage if MSTV's proposals are adopted. In addition, by adopting MSTV's proposals at this late date, the Commission would only ensure further delay and uncertainty in the DTV transition process. Accordingly, Cox urges the Commission to deny MSTV's *Ex Parte Submission*.

## **II. MSTV's Proposal Will Disrupt DTV Allotments in Smaller Television Markets.**

MSTV claims that the problems it identifies with respect to DTV adjacent channel interference and DTV congestion in certain areas of the country "can be alleviated quickly and with minimum disruption to the Commission's DTV allotment/assignment scheme."<sup>3/</sup> A total of 357 changes to the DTV Table is anything but minimally disruptive. It is not possible to evaluate completely and thoroughly those changes given the short timetable provided to assess MSTV's proposals. Even a cursory analysis of MSTV's proposals reveals that the new allotment scheme would benefit primarily broadcasters in the top 10 television markets

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<sup>3/</sup> *Ex Parte Submission* at 3-4.

while seriously disrupting the allotments in smaller markets. Specifically, if MSTV's proposals are adopted, broadcasters in smaller markets will likely experience serious reductions in coverage, both in terms of land area and population. In short, MSTV's *Ex Parte Submission* proposes nothing more than improvements for a select group of broadcasters in large markets to the detriment of stations in smaller markets. MSTV has failed to offer any public interest justification for such an unbalanced and unfair tradeoff.

**III. DTV Interference and Congestion Problems Should be Addressed on a Case-By-Case Basis.**

Rather than delay closure of this proceeding, the Commission should evaluate MSTV's proposals on a case-by-case basis after the DTV Table of Allotments is finalized. The Commission and the industry fully expect that future changes to the DTV Table and DTV operating parameters will be necessary as broadcasters gain more experience and encounter problems with DTV implementation in particular markets. Indeed, in its *Sixth Report and Order*<sup>4/</sup> in this proceeding, the Commission recognized that "the implementation of DTV will be a dynamic process" and that "continued industry negotiation and coordination efforts will help to facilitate this process and accommodate the inevitable changes [to the DTV Table of Allotments] that will occur."<sup>5/</sup> Accordingly, the Commission's DTV rules explicitly permit stations to request modifications to the DTV Table of Allotments and

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<sup>4/</sup> *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Sixth Report and Order*, 97-115, MM Docket No. 87-268 (Apr. 1997) ("*Sixth Report and Order*").

<sup>5/</sup> *Id.* ¶ 182.

encourage voluntary coordination efforts among broadcasters in the same market.<sup>6/</sup> MSTV offers no explanation for why its proposed changes could not be considered on a case-by-case basis in accordance with these rules.

Moreover, evaluating MSTV's proposals on a case-by-case basis would afford the Commission and affected broadcasters the time and opportunity to consider and study suggested allotment changes more thoroughly than is possible at this time. Because the *Ex Parte Submission* was filed so late in this proceeding, and given the necessity of concluding this proceeding promptly, broadcasters simply do not have enough time to assess the impact of MSTV's proposals on their DTV allotments. A case-by-case review of MSTV's proposals would ensure against a "shotgun" modification of the DTV Table of Allotments.

#### **IV. MSTV's Proposals Will Adversely Affect Cox Stations' DTV Coverage.**

Cox's stations are likely to suffer significant losses in DTV coverage if MSTV's proposals are adopted. In the San Francisco-Oakland market, for example, KTVU(TV) is predicted to suffer a population loss of 343,000 people over an area of 3,046 sq. kilometers as a result of MSTV's so-called "improvements." WSB-TV in Atlanta, Georgia, will lose coverage of 437 sq. kilometers and 19,000 viewers. WSOC-TV, located in Charlotte, North Carolina, will lose coverage of 16,200 viewers over an area of 1,955 sq. kilometers. In the Dayton, Ohio market, WHIO-TV is predicted to suffer a population loss of 21,000 people over an area of 165 sq. kilometers. KIRO-TV, Seattle, Washington, is predicted to lose

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<sup>6/</sup> See 47 C.F.R. § 73.623 (1997); *Sixth Report and Order* ¶¶ 221-22.

28,000 viewers and coverage of 295 sq. kilometers. In the face of these service losses, it is difficult to see the benefit of MSTV's proposal.

**V. Adoption of MSTV's Proposals Would Unreasonably Impede DTV Implementation.**

Broadcasters, including MSTV, have had ample opportunity to voice their concerns with the DTV Table of Allotments adopted in the FCC's *Sixth Report and Order*. MSTV's late-filed *Ex Parte Submission* fails to recognize that the DTV clock has already started to run and it is simply too late for the Commission to adopt the dramatic changes in the DTV Table of Allotments that MSTV has proposed. A number of television stations, including Cox's WSB-TV in Atlanta, have already applied for and been granted their DTV construction permit and have commenced or completed construction of their DTV facilities. Stations affiliated with any of the four major networks in the top 10 markets must file their construction permit applications by May 1998, and stations in the top 30 markets must file their applications by August 1998. If the FCC adopts MSTV's proposals at this late date, it is questionable whether these stations could meet the application deadlines. MSTV has provided no public interest justification warranting such delays.

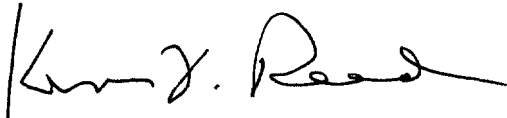
**VI. Conclusion.**

Cox does not support the proposals in MSTV's *Ex Parte Submission*. Although certain of MSTV's allotment modifications may merit consideration, a wholesale regeneration of the DTV Table of Allotments would not be in the public interest. The public interest would be far better served by evaluating allotment changes on a case-by-case basis, affording the Commission and affected broadcasters ample time to consider their likely impact.

Accordingly, Cox Broadcasting, Inc. respectfully urges the Commission to deny  
MSTV's *Ex Parte Submission*.

Respectfully submitted,

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